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DICELLO LEVITT GUTZLER

444 MADISON AVENUE FOURTH FLOOR NEW YORK, NEW YORK 10022

December 29, 2020

**MEMO ENDORSED**

**VIA CM/ECF FILING**

Honorable Valerie E. Caproni  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, New York 10007

**Re: *Employer's Insurance Company of Wausau v. 616 First Avenue LLC, Fourth Avenue Property Owner LLC, and 514 West 24th Owner LLC*, Case No. 20-cv-06942**

Dear Judge Caproni,

The parties have been involved in lengthy discussions relative to the current status of this case and this Court's subject matter jurisdiction inquiry. As a result of these discussions the parties have agreed that the Defendants in this case, 616 First Avenue LLC, Fourth Avenue Property Owner LLC, and 514 West 24th Owner LLC, will commence an action in state court in New York. Upon this action being filed, a copy of the complaint will be sent to Plaintiff's counsel. It is anticipated that this complaint will be filed by December 31, 2020. Once the case is filed in state court in New York and sent to Plaintiff's counsel this case will be dismissed by Plaintiff without prejudice.

In consideration of this correspondence the Defendants would request this Court vacate or stay the order regarding subject matter jurisdiction (Dkt. Nos. 36 and 39) inasmuch as this case will be dismissed.

Respectfully submitted,

Greg G. Gutzler

cc: All Counsel of Record via ECF

Defendants' time to respond to the Court's December 15, 2020 Order is hereby adjourned to January 15, 2021. This deadline will be canceled and the case closed upon receipt of a properly filed notice of voluntary dismissal.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", is written over the printed name.

Date: December 30, 2020

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE